

Remarks

Claims 1, 3 – 13, and 57 – 63 are pending.

As amended, Claims 1, 3 – 13 and 57 – 62 in Group I are directed to a cleansing pad comprising a solid cleansing agent pourable soap having a melting point of from about 120°F to about 160°F. Claim 57 further defines the solid cleansing agent pourable soap as one that is essentially solid at a first temperature range of less than about 120°F and essentially pourable (i.e., in molten form) in a second temperature range of from about 120°F to about 160°F.

Claim 63, the sole claim in Group II, is directed to a process for manufacturing a cleansing pad comprising the steps of (i) heating a solid cleansing agent pourable soap that (a) is in essentially solid form at a first temperature range of less than about 120°F and (b) is in essentially pourable molten form at a second temperature range of from about 120°F to about 160°F; (ii) applying the cleansing agent in molten form to the web of fibers that forms the pad; and (iii) allowing the molten cleansing agent to cool down to a temperature of less than about 120°F, at which point it cleansing agent resolidifies on the pad.

The inventions claimed in Groups I and II thus share as a common core claim element – a solid cleansing agent pourable soap having a melting point of from about 120°F to about 160°F. In searching for the inventions claimed in Group I, Applicants respectfully submit that there would not be an undue burden on the Examiner to search for the invention classified in Group II – a process of making a cleansing pad which has as a key processing step melting a solid cleansing pourable soap having a specific melting point range.

Serial No. 10/696,069 (Popovsky *et al.*)
Response to OA Mailed July 25, 2007

New matter is not added by these amendments. Reconsideration, re-examination and allowance of the claims in view of the amendments, as well as the remarks and the Expert Affidavit of Dr. Eric Jungermann, submitted pursuant to 35 C.F.R. § 1.132, both previously submitted in the Response to the Non-Final Office Action dated January 25, 2007, are respectfully requested.

Respectfully submitted,
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | |
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| 10/696,069 | 10/28/2003 | Michael Popovsky | HT03 | 5359 | |
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| CHIN, RANDALL E | | | | | |
| ART UNIT | PAPER NUMBER | | | | |
| | 1744 | | | | |
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| 07/25/2007 | PAPER | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



| | | |
|------------------------------|--|-------------------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/696,069 Examiner Randall Chin | POPOVSKY ET AL. Art Unit 1744 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1, 3-14 and 57-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1, 3-14 and 57-63 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1, 3-14 and 57-62, drawn to a cleansing pad, classified in class 15, subclass 104.93.
 - II. Claim 63, drawn to a method of manufacturing a cleansing device pad, classified in class 264, subclass 211.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process such as one not requiring steps of providing a solid cleansing agent pourable soap that is in essentially solid form at a first temperature range of less than about 120°F, and in essentially pourable molten form at a second temperature range of from about 120°F to about 160°F or one not requiring utilizing any molten cleansing agent.

2. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required

because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Randall Chin
Primary Examiner
Art Unit 1744